

Mr. Michael Do
Chief Operating Officer
Silkwave Africa, LLC
12020 Sunrise Valley Drive
Suite 100
Reston, VA 20191

May 13, 2021

Licensee: Silkwave Africa, LLC
Waiver/Refund Request: FY 2018 Regulatory Fee,
Late Payment Penalty and Interest
Disposition: Dismissed and Denied (47 U.S.C. §
159A(c) and (d), 47 CFR §§ 1.1160, 1.1164, 1.1166
and 1.1940)
Date of Request: April 10, 2019
Date Regulatory Fee Debt Paid: January 31, 2019
Fee Control No.: RROG-2019-16601C

Dear Mr. Wong:

This responds to the April 10, 2019 request of Silkwave Africa, LLC (“Silkwave”) for waiver and refund of the FY 2018 regulatory fee, late payment penalty and accrued interest Silkwave paid (the Request)¹ in January of 2019.

Under 47 U.S.C. § 159 and the Commission’s implementing rules, we are required to assess and collect regulatory fees to recover the costs of the Commission’s regulatory activities,² and when the required fee payment is received late or it is incomplete, to assess a penalty equal to twenty five percent (25%) of the amount of the fee which was not paid in a timely manner³ and thereafter to assess interest on unpaid debt until paid in full.⁴

Each year, the Commission establishes the final day on which payment must be received before it is considered late, *i.e.*, a deadline after which the Commission must assess statutorily required charges that include the 25% late payment penalty and accrued interest. The deadline for paying FY 2018 regulatory fees was September 25, 2018.⁵ Because Silkwave did not pay its FY 2018 regulatory fee by the September 25, 2018 deadline, the Commission assessed the statutory late payment penalty and interest on the debt accrued until it was paid in full in January of 2019.

¹ Letter from Michael Do, Chief Operating Officer, Space Systems and Broadcasting Services, New York Broadband LLC, 12020 Sunrise Valley Drive, Suite 115, Reston, Virginia 20191 to Marlene Dortch, Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554 (Jan. 14, 2019) (Request).

² 47 U.S.C. § 159(a).

³ 47 U.S.C. § 159A(c); 47 CFR § 1.1164.

⁴ 31 U.S.C. § 3717; 47 CFR 1.1940.

⁵ See *Fee Filer is Open for Payment of FY 2018 Regulatory Fees*, Public Notice (Aug. 30, 2018), <http://www.fcc.gov/document/fee-filer-open-accepting-fy-2018-regulatory-fee-payments>.

Silkwave now seeks a waiver and refund of the entire FY 2018 fee debt because its satellite Afristar-1 was not operational for much of FY 2018. Specifically, in December of 2017, its satellite Afristar-1 suffered a catastrophic failure, resulting in the satellite's de-orbiting in January of 2018. Silkwave contends that because it had no operational satellite for most of FY 2018, it was not required to pay the fee, and that payment of the fee was a mistake that should be remedied with a refund.⁶

Silkwave's understanding of the Commission's rule with respect to when and under what circumstances a satellite licensee is liable for regulatory fees in any fiscal year is incorrect. It is well established that if a licensee's satellite has launched and is operational on the first day of the Commission's fiscal year, October 1, the licensee must pay a regulatory fee for that fiscal year.⁷ The Commission does not waive or refund fees for any fiscal year solely because a satellite is taken out of operation during the fiscal year.⁸

In this case, Afristar-1 had launched and was operational on October 1, 2017, the first day of FY 2018. Silkwave was thus liable for payment of FY 2018 regulatory fees. Silkwave failed to demonstrate that waiver and refund of the FY 2018 regulatory fee, late payment penalty and accrued interest it paid is justified under Section 9A of the Communications Act and the Commission's rules.⁹ The Request is therefore denied.

If you have any questions concerning this matter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



James Lyons
Deputy Chief Financial Officer

⁶ Request.

⁷ The Commission's order establishing regulatory fees for FY 2018 included this language: "Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2017." *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Order, 33 FCC Rcd 8497, 8505, para. 23 (2018). That sentence or a facsimile has appeared for many years in the Commission's annual regulatory fee order. *See, e.g., Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Notice of Further Rulemaking, 33 FCC Rcd 7057, 7078, para. 56 (2017); *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Report and Order, 31 FCC Rcd 10339, 10356, para. 42 (2016).

⁸ *Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12763-12764, para. 23 (1995) (The Commission directed the Managing Director to deny Comsat's request for waiver or reduction of its regulatory fees even though Comsat's satellite was only operational for a limited period during the fiscal year, stating that "Fees are assessed on an annual basis pursuant to 47 CFR 1.1159(3)(b) and the Commission will not issue pro rata refunds.").

⁹ 47 U.S.C. § 159A(d), 47 CFR §§ 1.1166 and 1.1940.